



Ernie Fletcher
Governor

LaJuana S. Wilcher, Secretary
Environmental and Public
Protection Cabinet

Christopher L. Lilly
Commissioner
Department of Public Protection

Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460
psc.ky.gov

Mark David Goss
Chairman

Teresa J. Hill
Vice Chairman

Gregory Coker
Commissioner

May 2, 2006

PARTIES OF RECORD

Re: Case No. 2006-00072
North Middletown – Judy Water Association

Attached is a copy of the memorandum which is being filed in the record of the above referenced case. If you would like to make comments regarding the contents of the memorandum, please do so within five days of receipt of this letter. If you have any questions, please contact Gerald E. Wuetcher at 502/564-3940, Extension 259.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Beth O'Donnell".

Beth O'Donnell
Executive Director

vh/

Nathan Frazier
North Middletown Water & Gas System
P. O. Box 69
N. Middletown, KY 40357

Honorable Henry Watson, III
Attorney at Law
525 High Street, Suite 32
Paris, KY 40361

INTRA-AGENCY MEMORANDUM

KENTUCKY PUBLIC SERVICE COMMISSION

TO: Case File No. 2006-00072

FROM: Gerald Wuetcher *GEW*
Assistant General Counsel

DATE: May 2, 2006

RE: Telephone Conference Call of April 27, 2006

On April 27, 2006, Commission Staff held a telephone conference call in this case. Participating were:

Bill Ray Fawns	-	Judy Water Association
Henry Watson	-	North Middletown
Betsy Frazier	-	North Middletown
Nathan Frazier	-	North Middletown
Buddy Mers	-	North Middletown
Jess Thompson	-	Commission Staff
Gerald Wuetcher	-	Commission Staff

Commission Staff arranged the conference call after North Middletown had moved for an informal conference in this proceeding.

Beginning the conference, Mr. Wuetcher stated that Commission Staff would prepare minutes of the conference for the case record, that a copy of these minutes would be provided to all parties, and that all parties would be given an opportunity to submit written comments upon those minutes.

Mr. Wuetcher briefly reviewed North Middletown's position: North Middletown has provided wholesale water service to Judy Water Association since 1999. The charges for this service are set forth in a contract that North Middletown and Judy Water Association entered in 1999. North Middletown did not file this contract with the Commission. It was unaware of Commission jurisdiction over municipal utilities that provide wholesale water service to public utilities. In February 2005, North Middletown increased its rate for wholesale water service to Judy Water Association. The 1999 contract provides for the automatic pass-through of such costs. North Middletown did not apply to the Commission for approval to adjust its rates. While North Middletown may have technically violated KRS 278.160 and KRS 278.180, these violations were not intentional or willful.

Mr. Fawns stated that, although Judy Water Association reported the upward adjustment of North Middletown's rates for wholesale water service, it did not request the initiation of the current proceeding and did not object to North Middletown's present rate for wholesale water service. Mr. Wuetcher then noted that Judy Water Association sought to adjust its rates to pass through to its customers the increase in its wholesale costs. While reviewing Judy Water Association's application, the Commission discovered that North Middletown was providing wholesale water service and had failed to file with the Commission its wholesale contract or rate schedule for wholesale water service. This proceeding then followed.

Mr. Watson asserted that there is no evidence of willful intent on North Middletown's part to violate any provision of KRS Chapter 278. He noted that North Middletown only began wholesale water service in 2000. He further noted that it had not had any previous dealings with the Commission. Since it did not commence wholesale water service until 2000, he noted, it was never served with a copy of the Commission's Order in Administrative Case No. 351 and had no knowledge of the Kentucky Supreme Court's ruling in Simpson County Water District v. City of Franklin, 871 S.W.2d 460 (Ky. 1994).

Mr. Wuetcher and Mr. Watson discussed possible methods of resolving the proceeding. They agreed that Commission Staff would prepare a proposed stipulation of facts for submission to the Commission in lieu of a hearing. Mr. Wuetcher stated that this stipulation would be submitted to North Middletown no later than May 10, 2006. Mr. Wuetcher and Mr. Watson agreed to discuss a possible settlement agreement at a later date.

Mr. Wuetcher suggested, and Mr. Watson agreed, that North Middletown file with the Commission the existing contract and a tariff sheet reflecting North Middletown's present rates as soon as possible. He advised Mr. Fawns that once North Middletown had filed these documents with the Commission, Judy Water Association should reapply for a purchase water adjustment to reflect the costs of North Middleton's present rates. Mr. Wuetcher further suggested to Mr. Fawn that, upon completion of this proceeding, Judy Water Association consider filing a request for a surcharge to recover any lost revenues resulting from the Commission's decision not to permit a pass-through of North Middletown's rate adjustment. He noted that the Kentucky Court of Appeals' decision in Kentucky Public Service Commission v. Cumberland Falls Highway Water District, 834 S.W.2d 726 (Ky. App. 1992) may support such an application.

The conference then adjourned.

cc: Parties of Record